

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY JIDDA PRIORITY
INFO AMEMBASSY ABU DHABI
AMCONSUL ALEXANDRIA
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AMEMBASSY DAMASCUS
AMCONSUL DHAHRAN
AMEMBASSY DOHA
AMEMBASSY KUWAIT
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USLO RIYADH
AMEMBASSY SANA
AMEMBASSY TRIPOLI

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E.O. 11652: N/A

TAGS: PFOR, SA

SUBJECT: REVISED SAG BOYCOTT PRACTICES: CONSISTENCY WITH
EXPORT ADMINISTRATION ACT (EAA) REGULATIONS

REF: A) JIDDA 1499; B) JIDDA 1521 (NOTAL); C) JIDDA 1544
(NOTAL); D) JIDDA 2497 (NOTAL)

1. YOUR REPORTING ON CHANGES IN SAUDI INTERNAL REGULATIONS COVERING LETTERS OF CREDIT/GOVERNMENT CONTRACTING IS MUCH APPRECIATED.

2. MINISTRY COMMERCE INSTRUCTION REF (C) TO SAG ENTITIES TO DETERMINE BOYCOTT STATUS OF FOREIGN FIRMS THROUGH SAUDI BOYCOTT OFFICE BEFORE ENTERING CONTRACT IS NOT CONSISTENT WITH A PRINCIPLE OBJECTIVE OF EAA, I.E., TO END PARTICIPATION BY U.S. FIRMS IN ENFORCEMENT BY U.S. FIRMS OF OTHER COUNTRIES' BOYCOTT PRACTICES. SUCH PROCEDURE DOES NOT RAISE PROBLEMS FOR U.S. FIRMS UNDER EAA REGS. HOWEVER, INSTRUCTION TO EFFECT SAG AGENCIES MUST REQUIRE FOREIGN FIRMS WITH WHICH THEY CONTRACT TO SEEK SUCH CLEARANCE FOR OTHER FIRMS IS TROUBLESOME. UNDER EAA REGS, U.S. FIRM HAVING CONTRACT WITH SAG AGENCY COULD COMPLY WITH SUCH PROCEDURE ONLY IF IT IS BONA FIDE RESIDENT OF SAUDI ARABIA AND ALL OTHER CONDITIONS OF LOCAL IMPORT LAW EXCEPTION ARE

MET. U.S. FIRMS NOT RESIDENT IN SAUDI ARABIA (AND THUS NOT ELIGIBLE FOR LOCAL IMPORT LAW EXCEPTION) HAVING CONTRACTS WITH SAG AGENCIES COULD PROVIDE NON-BOYCOTT BASED LISTS OF QUALIFIED SUPPLIERS/SUBCONTRACTORS FOR UNILATERAL SELECTION BY SAG AGENCY. HOWEVER, SUCH FIRMS LIMITED OFFICIAL USE

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COULD NOT COMPLY WITH REQUIREMENT THAT THEY CLEAR NAMES OF PROPOSED SUPPLIERS/SUBCONTRACTORS THROUGH SAG BOYCOTT OFFICE FOR PURPOSE OF EXCLUDING THEM FROM TRANSACTION IF SAG DETERMINES THEY ARE BLACKLISTED. SUCH COMPLIANCE WOULD CONSTITUTE PROHIBITED REFUSAL TO DO BUSINESS.

3. WE WELCOME SAUDI DECISION TO DELETE NEGATIVE BOYCOTT CONDITIONS FROM LETTER OF CREDIT REQUIREMENTS AND ADOPT POSITIVE CERTIFICATION REQUIREMENTS, AS CITED REF (B).

4. THERE FOLLOWS BY SEPTEL THE TEXT OF THE FEDERAL REGISTER NOTICE SETTING FORTH DEPARTMENT OF COMMERCE'S SUPPLEMENTAL INTERPRETATION OF EAA REGULATIONS. ALTHOUGH GUIDANCE IS GENERAL, IT BEARS ON ISSUES RAISED BY NEW SAUDI REQUIREMENTS. THIS INTERPRETATION WAS ISSUED ON APRIL 18 AND IS EXPECTED TO BE PUBLISHED IN APRIL 21 FEDERAL REGISTER.

5. WE NOT CLEAR ON EFFECTIVE DATE OF REVISED LETTER OF CREDIT PROVISIONS. IN ANY EVENT, SIX-MONTH PERIOD ALLOWED FOR SAUDI IMPORTERS TO PHASE OUT EARLIER REQUIREMENTS (PER PARA 2 REF (B)) WILL EXTEND BEYOND JUNE 21, 1978

DEADLINE FOR NEGATIVE CERTIFICATIONS IN IMPORT AND SHIPPING DOCUMENTATION UNDER EAA REGS. WE HOPE THAT SAUDI IMPORTERS CAN BE ENCOURAGED TO DROP NEGATIVE REQUIREMENTS AND ADOPT REVISED CONDITIONS PRIOR THAT DATE. RE EMBASSY COMMENT PARA 3 REF (D) ON POSSIBLE CONTINUED USE OF EXISTING LETTER OF CREDIT FORMS WITH NEW DOCUMENTATION AS ATTACHMENTS, MERE APPEARANCE OF EARLIER NEGATIVE CERTIFICATION REQUIREMENTS ON FACE OF DOCUMENT WOULD NOT POSE PROBLEMS FOR U.S. FIRMS UNDER EAA REGS, SO LONG AS IT IS CLEAR THAT U.S. FIRMS ARE NOT REQUIRED TO FURNISH SUCH CERTIFICATIONS AS CONDITION OF PAYMENT OF THE LETTER OF CREDIT. CHRISTOPHER

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Disposition Approved on Date:
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